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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

May 6, 1993

Ms. Donna Searcy
Secretary of Federal
Communications Commission
1919 M Street, NW
Washington, DC 20054

Re: Channel Exclusivity for Qualified Private Paging System
PR Docket No. 93-35

Dear Ms. Searcy:

Transmitted herewith on behalf of American Paging, Inc. are
an original and nine copies of its Comments in the above-

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAY - 6 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:)

Amendment of the Commission's)
Rules and to Provide Channel)
Exclusivity to Qualified Private)
Paging Systems at 929-930 MHz)

PR Docket 93-35

RM-7986

TO: The Commission

COMMENTS OF
AMERICAN PAGING, INC.

George Y. Wheeler
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1150 Connecticut Avenue, N. W.

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SUMMARY

American Paging, Inc. ("API") strongly supports the Commission's proposals to authorize channel exclusivity for qualified private paging systems. API has under construction the

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TO: The Commission

COMMENTS OF
AMERICAN PAGING, INC.

American Paging, Inc. ("API"), by its attorneys, submits its comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding ("PCP NPRM").

INTRODUCTION

API is a wholly-owned subsidiary of Telephone and Data Systems, Inc. It is an active competitor in the paging industry and continues to be a leader in developing advanced paging network capabilities and wide-area paging services. API's vital interest in developing wide-area paging and innovative services is both longstanding and continuing. In the early 1980's, API designed a wide-area system connecting the Madison, Milwaukee and Green Bay, Wisconsin MSAs. This was one of the first systems built with the capability to provide wide-area digital display paging. In 1991, API became the first carrier to use satellite interconnection for its comprehensive statewide paging system

serving Florida.

API strongly believes that PCP technologies will make an important contribution to the diverse structure of the competitive paging market. API has committed substantial resources to the development of an advanced nationwide PCP network. API currently holds 115 PCP authorizations for facilities on 929.3375 MHz in 46 states and is actively engaged in the construction of its new PCP network. It also has in excess of 450 additional applications pending for facilities which will complete its nationwide network design. When completed, this network will serve all 50 states, the District of Columbia and Puerto Rico, including more than 43 of the top fifty markets and from eight to twenty markets in each of the "Regions" defined in Section 90.495(a)(3)(iii) of the Commission's proposed rules.

As a company actively interested in developing new subscriber-based telecommunications services, API strongly supports the Commission's initiatives to make frequencies available on an exclusive basis to encourage the development of nationwide, regional and local PCP systems. We urge the Commission to act promptly to adopt its proposed rules. We discuss significant features of the Commission's proposals in the following sections of these Comments.

DISCUSSION

1. The Commission Should Adopt Rules And Policies Establishing Channel Exclusivity For 900 MHz PCP Systems.

We strongly support the objectives of the National Association of Business and Educational Radio ("NABER") proposals to encourage the development of spectrum efficient "multi-transmitter" systems for operation of nationwide, regional and local PCP systems. The establishment of multi-transmitter networks based upon exclusive frequency assignments will promote spectrum efficient use of PCP frequencies, development of new and innovative service offerings, rapid and widespread availability of advanced paging services and expanded competitive service offerings.

We also support the Commission's conclusion that "...exclusivity should be implemented sooner rather than later".¹ The Commission should act promptly to adopt PCP channel exclusivity in order for such exclusive channel rights to have beneficial impact upon deployment of PCP systems, particularly to avoid congestion and crowding on the exclusively assigned frequencies.

¹ PCP NPRM, Para. 17.

2. The Commission Should Select Another Suitable Frequency To Replace Its Tentative Selection of 829 3275 MHz For

considered "clear". Designation of a replacement PCP frequency for continued shared use from among this group of frequencies is an appropriate means of meeting the needs of applicants requiring shared PCP frequencies.

Use of 929.3375 MHz on an exclusive basis will also serve the Commission's goals of promoting the rapid and efficient implementation of multi-transmitter PCP systems, in this case a nationwide PCP system. API has devoted substantial planning, engineering and administrative resources to develop a phased implementation of its ambitious network design. Procurement and delivery of transmission equipment for the initial phase of system construction has been completed. Site acquisition and installation of this equipment are on-going. Co-channel users whose facilities are currently authorized or in operation have been identified and negotiations to provide substitute facilities or services to meet their needs are on-going. There is no reason for these efforts to be complicated or delayed considering that suitable substitute frequencies are readily available for shared use.

Grant of the frequency substitution proposed here is also a sound and appropriate administrative result in that API has already filed and the Commission has granted a very substantial number of PCP authorizations. At this early phase of the Commission's proceedings, substituting an alternative non-

exclusive frequency would avoid large scale reprocessing of API's authorizations and pending applications and would require substantially less expenditure of staff resources than the "reassignment" procedures referenced in Footnote 45 of the PCP NPRM. Considering that the needs of applicants requiring non-exclusive frequencies would not be prejudiced, grant of our request would clearly meet all relevant public interest objectives.

3. The Commission Should Adopt Its Proposed Rules And Policies Regarding the Prerequisites For Nationwide, Regional And Local Channel Exclusivity.

We believe that the Commission's proposed requirements for nationwide, regional and system licensees to qualify for channel exclusivity should be an effective balance of the necessary incentives to encourage the capital investment to build qualifying systems and reasonable performance thresholds to discourage frivolous applications.

As described above, API's nationwide network will significantly exceed the Commission's proposed prerequisites for nationwide systems. The Commission's proposals establish appropriate minimum thresholds for nationwide systems.

Regarding "local" systems, we support the NABER proposal that local systems in the three largest urban markets should be

comprised of no fewer than 18 contiguous transmitters. We think there should also be thresholds for the 4th through the 20th largest urban markets of at least 12 contiguous transmitters and for the 21st through the 30th largest urban markets of at least 9 contiguous transmitters.

The foregoing recommendations, particularly those regarding threshold requirements for the 4th through the 30th urban markets are based upon API's experience over many years of operating paging systems. In order to achieve the "wider coverage area" and "greater flexibility to customers,"³ envisaged by the Commission, in these largest urban markets, the number of contiguous transmitters required should be greater than the minimum of six tentatively proposed by the Commission for all other markets.⁴ Our recommended thresholds for these markets attempt to set minimums which are not so high as to deter applications by responsible operators and at the same time are high enough to assure initial PCP coverage and capacity to justify the allocation of exclusive channels in the public interest.

³ PCP NPRM, Para. 18.

⁴ Id. at Para 20.

4. Existing Non-Exclusive PCP Operations Should Be Assured Of
The Prompt Availability Of Adequate Substitute Facilities Or
Service.

We support adoption of procedures which promote the prompt availability of exclusive channels for multi-transmitter nationwide, regional and local PCP systems and at the same time assure existing non-exclusive licensees the continued availability of facilities or services which they need.

We believe that the operations of existing non-exclusive licensees should terminate as soon as adequate substitute services or facilities are available. This could occur in any of a number ways including requiring licensees on exclusive frequencies (1) to provide capacity to existing licensees on their exclusive channel systems or (2) to modify the facilities

provision also needs to be made for rapid implementation of the exclusive channel multi-transmitter systems contemplated here. If the licensee of an exclusive channel system provides substitute capacity to meet the needs of any existing licensee pending the completion of voluntary negotiations, the existing licensee should be required to terminate co-channel operations as soon as that substitute capacity is available.⁵

In the event voluntary negotiations are unsuccessful after some designated period, such as six months, the Commission should also provide a mechanism for resolving any remaining disputes. We also expect that it would be extremely rare for any dispute to be brought to the Commission and that the principal benefits from adopting a strong dispute resolution mechanism are indirectly to promote timely resolution of disputes on a voluntary basis.

5. The Commission Should Permit Nationwide PCP Systems On Exclusive Channels To Operate With ERP Of 3500 Watts.

We recommend that the Commission permit all nationwide licensees to operate with ERP of 3500 Watts. Other PCP systems should also be permitted to operate with up to 3500 watts ERP subject to a satisfactory demonstration of non-interference to adjacent systems.

⁵ It is intended that such substitute capacity would be functionally equivalent to or better than the coverage and quality of paging services provided over the existing co-channel facilities.

The Commission has recently granted waivers for Skytel's nationwide common carrier system to operate with up to 3500 watts ERP based upon the public benefits from implementation of SkyTel's nationwide common carrier paging network.⁶ We see entirely comparable benefits here, particularly in the implementation of nationwide PCP systems on exclusive use channels. For example, high powered PCP operations can provide effective coverage in rural or thinly populated areas. In these circumstances, increased power permits fewer transmitters to cover a given area, reduces operating costs and ultimately means that licensees can afford to charge lower rates for use of their facilities. This is only one of what could be many examples of how such technical flexibility makes possible important public benefits.

Use of a 3500 watt maximum ERP is an appropriate and cost-effective design attribute for PCP systems which should be available to nationwide and regional licensees. As discussed here, the flexibility to employ high ERP configuration of PCP transmitters will have important public benefits and should be adopted in the Commission's final rules.

⁶ See Notice of Proposed Rulemaking (FCC 93-188), CC Docket No. 93-116, released April 23, 1993.

6. The Commission Should Recognize NABER As The Frequency Coordinator For The PCP Frequencies At issue Here.

We support the position of NABER that the Commission should designate a single frequency coordinator for all exclusive and non-exclusive PCP channels and that NABER should be that coordinating body. We agree that application processing productively would be maintained and conflicts among coordinating bodies would be avoided, if NABER continues its current role as the sole coordinator for the PCP band.

CONCLUSION

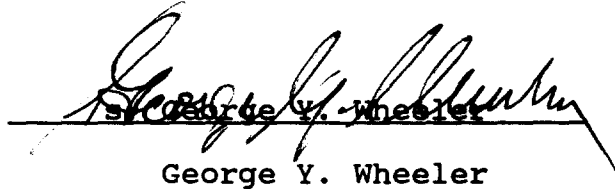
We urge the Commission promptly to adopt its proposals to designate exclusive channels for the implementation of nationwide, regional and local PCP systems. The continuing substantial growth in paging usage and the demand for new and innovative applications of paging technologies make it imperative that new spectrum efficient designs for PCP systems be implemented through the use of exclusive channels. As the Commission indicated in its PCP NPRM, it has an important opportunity to encourage the development of multi-transmitter systems while there is still a relative lack of crowding in the

band. We agree that "...exclusivity should be implemented sooner rather than later." ⁷

Respectively submitted,

AMERICAN PAGING, INC.

By


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